



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

ROMAN CLEMENT,
Plaintiff

vs.

SPARTANBURG STEEL PRODUCTS, INC.,
Defendant.

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CIVIL ACTION NO. 7:19-666-MGL-KFM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND GRANTING DEFENDANT'S MOTION TO DISMISS**

Plaintiff Roman Clement (Clement) filed this employment action against Defendant Spartanburg Steel Products, Inc. (SSP). In Clement's second amended complaint, he claims pay discrimination based on race in violation of Title VII and the Equal Pay Act (EPA). Clement is self represented.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting SSP's motion to dismiss the second amended complaint for failure to state a claim be granted. The Magistrate Judge further recommends that, inasmuch as Clement has been given two opportunities to amend his claims, and the second amended complaint still fails to state a plausible claim, the second amended complaint should be dismissed with prejudice.

The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 12, 2020, Clement filed his objections on August 24, 2020, and his supplemental objections on August 25, 2020, SSP filed its reply to the objections on September 8, 2020, and Clement filed two additional sets of supplemental objection on January 20, 2021, and February 11, 2021. Thereafter, SSP filed a reply to Clement's supplemental objections on February 22, 2020, after which Clement filed a motion to continue on February 26, 2021. The Court has carefully reviewed Clement's objections and supplemental objections, but holds them to be without merit. It will therefore enter judgment accordingly.

As the Court noted, the Magistrate Judge advises it to grant SSP's motion to dismiss based upon Clement's failure to state a claim as to both his Title VII and EPA pay discrimination claims. The EPA is concerned with equal pay between sexes; and because Clement's pay discrimination claim is based on his race, not his sex, the Magistrate Judge suggested Clement's claim of discriminatory treatment in violation of the EPA be dismissed.

Clement fails to address this matter in his objections. Thus, the Court will grant SSP's motion to dismiss Clement's EPA claim for the reason given by the Magistrate Judge.

The gist of Clement's objections as to his Title VII claim is that the Magistrate Judge erred in suggesting that the Court should grant SSP's motion to dismiss for failure to state a Title VII

claim because, according to him, he has alleged facts sufficient to properly claim the reason SSP failed to pay him equally is because of his race. The Court, however, respectfully disagrees.

The Court need not address each of Clement's individual objections here. The Magistrate Judge has already considered and rejected most of them in his determination Clement has failed to make out a plausible Title VII pay discrimination cause of action. Inasmuch as the Court agrees with the Magistrate Judge's treatment of those claims, the Court will not repeat the discussion here. And, Clement's new arguments are so lacking in merit as not to require any discussion.

Suffice it to say that Clement's "second amended complaint falls short of alleging facts from which to reasonably infer that their difference in treatment was attributable to racial discrimination." Report at 14 (citation omitted) (internal quotation marks omitted). Accordingly, the Court will overrule Clement's objections concerning his Title VII claim.

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court overrules Clements's objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of this Court SSP's motion to dismiss is **GRANTED** and Clement's complaint is **DISMISSED WITH PREJUDICE**. Therefore, Clement's motion to continue is necessarily **RENDERED AS MOOT**.

IT IS SO ORDERED.

Signed this 2nd day of March, 2021, in Columbia, South Carolina.

/s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Clement is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to the Federal Rules of Appellate Procedure.